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[12510/20]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:
Michael GABRIEL et al.

Examiner: Scott E. Beliveau

For: SYSTEM AND METHOD FOR CONTENT
ACCESS CONTROL THROUGH DEFAULT
PROFILES AND METADATA POINTERS

Art Unit: 2623

Filed: July 25, 2003

Serial No.: 10/627,002

Mail Stop Appeal Brief - Patents
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Date: October 18, 2007

Signature: 
Michelle M. Carniaux (Reg. No. 36,098)

TRANSMITTAL LETTER FOR APPEAL BRIEF

SIR:

In support of the Notice of Appeal filed September 7, 2007, and believed to have been received by the United States Patent and Trademark Office on September 10, 2007 for the above-referenced application, Applicants submit herewith an Appeal Brief.


The Commissioner is hereby authorized to charge payment of the 37 C.F.R. § 41.20(b)(2) appeal fee of \$510, and any additional fees associated with this communication to **Kenyon & Kenyon LLP's** deposit account number 11-0600.

Respectfully submitted,

KENYON & KENYON LLP

Dated: October 18, 2007

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Enclosures



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Date: October 16, 2007

Signature:  Michelle M. Camiaux (Reg. No. 36,098)

APPEAL BRIEF PURSUANT TO 37 C.F.R. § 41.37

SIR:

On September 7, 2007, Appellants submitted a Notice of Appeal from the last decision of the Examiner contained in the Final Office Action dated July 16, 2007 in the above-identified patent application. The Notice of Appeal is believed to have been received by the United States Patent and Trademark Office on September 10, 2007.

In accordance with 37 C.F.R. § 41.37, this brief is submitted in support of the appeal of the final rejections of claims 2-16, 18-21, 23-30, and 32-35. For at least the reasons set forth below, the final rejections of claims 2-16, 18-21, 23-30, and 32-35 should be reversed.

1. REAL PARTY IN INTEREST

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The real party in interest in the present appeal is Home Box Office, of New York, New York, which is the assignee of the entire right, title and interest in the present application.

2. RELATED APPEALS AND INTERFERENCES

There are no other prior or pending appeals, interferences or judicial proceedings known by the undersigned, or believed by the undersigned to be known to Appellants or the assignee, Home Box Office, "which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal."

3. STATUS OF CLAIMS

Claims 1, 17, 22, and 31 have been canceled.

Claims 2-5, 9-14, 16, 19, 20, 21, 23-25, 27-30, and 32-35 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 6,785,901 ("Horiwitz et al.") and U.S. Patent No. 6,704,929 ("Ozer et al.").

Claims 6 and 26 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Horiwitz et al., Ozer et al., and U.S. Patent Application No. 2003/0088420 A1 ("alSafadi et al.").

Claims 7, 8, 15, and 18 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Horiwitz et al., Ozer et al., and U.S. Patent Application No. 2003/0014750 A1 ("Kamen").

Appellants appeal from the final rejections of claims 2-16, 18-21, 23-30, and 32-35.

A copy of the appeal claims, *i.e.*, claims 2-16, 18-21, 23-30, and 32-35, is attached hereto in the Claims Appendix.

4. STATUS OF AMENDMENTS

Appellants have not filed any amendments in response to the Final Office Action dated July 16, 2007.

5. SUMMARY OF CLAIMED SUBJECT MATTER

A. Independent Claim 9

The presently claimed subject matter of independent claim 9 relates to a method to control access to content via a player system accessible by a plurality of users. *Specification*, page 2, lines 27 to 28.

A default profile is provided which includes at least one filtering criterion. The filtering criterion describes at least one characteristic of content permitted or content prohibited for all of the plurality of users. *Specification*, page 2, lines 28 to 34. Fig. 1 shows

an example of a screen where the user may select filtering criteria to configure the default profile. *Specification*, page 7, lines 6 to 9.

Fig. 2 shows an example of the operation sequence for performing the control. *Specification*, page 9, lines 25 to 26. Metadata associated with a selected content using a URL is obtained using the URL (220). *Specification*, page 9, line 28 to page 10, line 2. The metadata includes information related to the selected content. *Specification*, page 2, lines 35 to 36. The metadata and the filtering criterion of the default profile are compared (230). *Specification*, page 2, lines 34-35; and page 10, lines 9 to 11. Access to the content is permitted (270) or denied (280) based on the comparison. *Specification*, page 3, lines 1 to 2; and page 10, lines 31 to 35.

B. Independent Claim 10

The presently claimed subject matter of independent claim 10 relates to a method to control access to content via a player system accessible by a plurality of users. *Specification*, page 2, lines 27 to 28.

A default profile is provided which includes at least one filtering criterion. The filtering criterion describes at least one characteristic of content permitted or content prohibited for all of the plurality of users. *Specification*, page 2, lines 28 to 34. Fig. 1 shows an example of a screen where the user may select filtering criteria to configure the default profile. *Specification*, page 7, lines 6 to 9.

Fig. 2 shows an example of the operation sequence for performing the control. *Specification*, page 9, lines 25 to 26. Metadata associated with a selected content is obtained using a pointer (220). The pointer to the metadata is embedded in a Vertical Blanking Interval of a signal of the selected content. *Specification*, page 9, lines 28 to 36. The metadata includes information related to the selected content. *Specification*, page 2, lines 35 to 36. The metadata and the filtering criterion of the default profile are compared (230). *Specification*, page 2, lines 34-35; and page 10, lines 9 to 11. Access to the content is permitted (270) or denied (280) based on the comparison. *Specification*, page 3, lines 1 to 2; and page 10, lines 31 to 35.

C. Independent Claim 21

The presently claimed subject matter of independent claim 21 relates to a content player accessible to a plurality of users. *Specification*, page 3, line 4.

Fig. 5 shows an example of a player mechanism (500). *Specification*, page 11, lines 14 to 15. The player includes a memory device storing a default profile (520). *Specification*, page 3, lines 4 to 5; and page 11, lines 18 to 22. The default profile includes at least one filtering criterion. The filtering criterion describes at least one of a characteristic of content permitted or content prohibited for all of the plurality of users. *Specification*, page 3, lines 5 to 10.

The player, an example of which is shown in Fig. 5, also includes a processor (510). *Specification*, page 3, lines 10 to 11; and page 11, lines 16 to 18. The processor obtains metadata associated with selected content using a pointer. *Specification*, page 3, line 35 to page 4, line 1. The processor is configured to obtain the pointer to the metadata, the pointer being encoded in a vertical blanking interval of a signal of the selected content. *Specification*, page 3, lines 24 to 26; and page 3, line 35 to page 4, line 1. The processor is also configured to compare the metadata and the filtering criterion of the default profile and to permit or deny rendering of the selected content based on the comparison. *Specification*, page 3, lines 11 to 14.

The processor is provided in a settop box and controls rendering of the content on a television. *Specification*, page 12, lines 17 to 23. Fig. 6 shows examples of settop boxes (115a-115n) coupled to rendering devices (120a-120n) such as televisions. *Specification*, page 12, lines 6 to 25.

D. Independent Claim 27

The presently claimed subject matter of independent claim 27 relates to a method to control access to content via a player system. *Specification*, page 3, lines 16 to 17.

Fig. 2 shows an example of the operation sequence for performing the control. *Specification*, page 9, lines 25 to 26. Content is selected. *Specification*, page 3, line 18. The selected content is linked to metadata via a pointer. *Specification*, page 3, lines 18 to 19. The metadata is obtained using the pointer (220). *Specification*, page 3, lines 19 to 20; and page 9, lines 28 to 29. The metadata and at least one filtering criterion describing a characteristic of at least one of permitted content or prohibited content are compared (230). *Specification*, page 3, lines 20 to 23; and page 10, lines 9 to 11. Access to the selected content is permitted (270) or denied (280) based on the comparison. *Specification*, page 3, lines 23 to 24; and page 10, lines 31 to 35.

E. Independent Claim 30

The presently claimed subject matter of independent claim 30 relates to a control player. *Specification*, page 3, lines 30-31.

Fig. 5 shows an example of a player mechanism (500). *Specification*, page 11, lines 14 to 15. The player includes a memory device (520). *Specification*, page 3, lines 31 to 32; and page 11, lines 18 to 22. The memory device stores at least one filtering criterion. The filtering criterion describes a characteristic of at least one of permitted content and prohibited content. *Specification*, page 3, lines 32 to 34. The player also includes a processor (510). *Specification*, page 3, line 35; and page 11, lines 16 to 18. The processor is configured to obtain a pointer to metadata associated with selected content and to obtain the metadata using the pointer. *Specification*, page 3, line 35 to page 4, line 1. The processor is configured to extract the pointer from a vertical blanking interval (VBI) of a signal of the selected content. *Specification*, page 3, lines 24 to 26. The processor is further configured to compare the metadata and the filtering criterion and to permit or deny rendering of the selected content based on the comparison. *Specification*, page 4, lines 1-3.

F. Independent Claim 33

The presently claimed subject matter of independent claim 33 relates to a method to control access to content stored on a memory device. *Specification*, page 3, lines 16 to 17.

Fig. 2 shows an example of the operation sequence for performing the control. *Specification*, page 9, lines 25 to 26. Content stored on the memory device is selected. *Specification*, page 3, line 18. Metadata associated with the content is read (220) from a location indicated by a pointer extracted from a vertical blanking interval (VBI) of a signal of the selected content. *Specification*, page 3, lines 19 to 26; and page 9, lines 28 to 36. The metadata and at least one stored filtering criterion describing a characteristic of at least one of permitted content and prohibited content are compared (230). *Specification*, page 3, lines 20 to 23; and page 10, lines 9 to 11. Rendering of the content is permitted (270) or denied (280) based on the comparison. *Specification*, page 3, lines 23 to 24; and page 10, lines 31 to 35.

G. Independent Claim 35

The presently claimed subject matter of independent claim 35 relates to a control player. *Specification*, page 3, lines 30-31.

Fig. 5 shows an example of a player mechanism (500). *Specification*, page 11, lines 14 to 15. The player includes a memory device (520). *Specification*, page 3, lines 31

to 32; and page 11, lines 18 to 22. The memory device stores at least one filtering criterion. The filtering criterion describes a characteristic of at least one of permitted content and prohibited content. *Specification*, page 3, lines 32 to 34. The player also includes a processor (510). *Specification*, page 3, line 35; and page 11, lines 16 to 18. The processor is configured to retrieve metadata associated with selected content using a pointer. *Specification*, page 3, line 35 to page 4, line 1. The processor is further configured to compare the metadata and at least one stored filtering criterion and to permit or deny rendering of the selected content based on the comparison. *Specification*, page 4, lines 1-3.

The appealed claims include no means-plus-function language and no step-plus-function claims, so that 41.37(c)(1)(v) is satisfied as to its specific requirements for such claims, since none are present here.

6. GROUND S OF REJECTION TO BE REVIEWED ON APPEAL

A. Whether claims 2-5, 9-14, 16, 19-21, 23-25, 27-30, and 32-35, which stand rejected under 35 U.S.C. § 103(a), are patentable over the combination of Horiwitz et al. and Ozer et al.

B. Whether claims 6 and 26, which stands rejected under 35 U.S.C. § 103(a), is patentable over the combination of Horiwitz et al., Ozer et al., and alSafadi et al.

C. Whether claim 7, 8, 15, and 18, which stands rejected under 35 U.S.C. § 103(a), is patentable over the combination of Horiwitz et al., Ozer et al., and Kamen.

7. ARGUMENTS

A. Rejection of Claims 2-5, 9-14, 16, 19-21, 23-25, 27-30, and 32-35 Under 35 U.S.C. § 103(a)

Claims 2-5, 9-14, 16, 19-21, 23-25, 27-30, and 32-35 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,785,901 (“Horiwitz et al.”) in view of U.S. Patent No. 6,704,929 (“Ozer et al.”). U.S. Application No. 09/376,631 (the “Ozer ‘631 application”), supposedly incorporated into Ozer et al., is also discussed in the rejection.

Claim 9

Claim 9 recites the following:

9. A method to control access to content via a player system accessible by a plurality of users, the method comprising:
providing a default profile including at least one filtering criterion, the filtering criterion describing at least one of a characteristic of content permitted for all of the plurality of

users and a characteristic of content prohibited for all of the plurality of users;

comparing metadata associated with a selected content and the filtering criterion of the default profile, the metadata including information related to the selected content; and

permitting or denying access to the content based on the comparison, wherein the metadata is associated with the selected content using a URL in connection with the selected content, and wherein the method further comprises obtaining the metadata using the URL, wherein the URL associates the metadata with the selected content.

Horiwitz et al. describes locking and unlocking of program content. This locking is based on information, such as rating information, in an electronic program guide. This Examiner essentially admits that the rating information in Horiwitz et al. is not described as being associated with a particular content using a URL. For this feature of claim 9, the Examiner relies on Ozer et al., and, the Ozer '631 application.

As an initial matter, it is noted that neither Ozer et al. nor the Ozer '631 application has anything to do with controlling access to program content. These documents instead relate to tracking viewing behavior. Viewing behavior is stored locally, and the resulting viewer behavior is ultimately transmitted to a remote clearing house for storage.

One of ordinary skill in the art would not look to either Ozer et al. or the Ozer '631 application to modify an system for controlling access to program content, such as is described by Horiwitz et al. These systems described in Ozer et al. and the Ozer '631 application are not analogous to the systems described in Horiwitz et al.

In addition, as regards to the URL associating metadata with selected content recited in claim 9, the Office Action apparently relies on the "marker" described in the Ozer '631 application. In the Ozer '631 application, a marker, which could be a URI or other code, is embedded in a television signal that carries an advertisement. Page 15, lines 9-15. This marker is merely logged by the local device (management device 120). Lists of markers are then transmitted to a remote clearing house, which can then use the URI to gather further information regarding the advertisement. Page 17, lines 7-17. Even if one were to combine Horiwitz et al. with the markers of the Ozer '631 application, one could not control access to content using the markers, since the markers are utilized only by the remote clearing house and not the local device (the local device merely records the occurrence of the marker). Claim 9 expressly recites that the metadata (which is compared to the filtering criteria) is obtained (for permitting or denying access to the content) using the URL.

Moreover, the “marker” in the Ozer ‘631 application merely associates (by the clearing house) an advertisement and information about the advertisement. This marker has nothing to do with linking content with information that would be used for controlling access to content. As noted above, the marker is used merely for tracking viewer behavior.

Separately from the “marker,” the Ozer ‘631 application describes a different embodiment that refers to advertisement information stored in an electronic program guide. However, this Ozer ‘631 application does not describe linking the electronic program guide to an advertisement using either a URL, or even the marker. Page 17, line 18 – page 18, line 13.

In brief summary:

(1) a person of ordinary skill in the art seeking to modify a content access control system such as described in Horiwitz et al. with features of a system for tracking viewer behavior such as described in Ozer et al. or the Ozer ‘631 application;

(2) the marker of the Ozer ‘631 application is used only by a remote clearing house for gathering further information; the local device merely records lists of markers and transmits the lists to the remote clearing house; and

(3) the marker of the Ozer ‘631 application merely links (by a remote clearing house) advertisements and further information about the advertisements); it does not link the kind of information to content that would be used for content access control.

For at least the foregoing reasons, the Appellants respectfully submit claim 9 is allowable over the cited references. The rejection of claim 9 should therefore be reversed.

Claim 10 (and claims 2-5, 11-14 and 16, which depend from claim 10)

Claim 10 recites the following:

10. A method to control access to content via a player system accessible by a plurality of users, the method comprising:
 providing a default profile including at least one filtering criterion, the filtering criterion describing at least one of a characteristic of content permitted for all of the plurality of users and a characteristic of content prohibited for all of the plurality of users;
 comparing metadata associated with a selected content and the filtering criterion of the default profile, the metadata including information related to the selected content; and
 permitting or denying access to the content based on the comparison, wherein a pointer to the metadata is encoded in a Vertical Blanking Interval of a signal of the selected content, and the method further comprising obtaining the metadata using the pointer.

As described above in connection with claim 9, the primary reference upon which the Office Action relies, Horiwitz et al., relates to locking and unlocking program content, i.e., content access control. Both Ozer et al. and the Ozer '631 application have nothing to do with content access control, and instead relate to tracking viewing behavior. A person of ordinary skill in the art would not look to Ozer et al. (or the Ozer '631 application) in seeking to modify the locking and unlocking system described in the Horiwitz patent.

Additionally, claim 10 recites that a pointer to metadata encoded in the VBI of the signal of the selected content is used to obtain metadata (and that metadata is compared to filtering criterion of a default profile, and, based upon that comparison, access to the content is permitted or denied). With respect to the recited pointer, the Office Action apparently relies on the "marker" described in the Ozer '631 application. However, as noted above, in the Ozer '231 application, (1) the marker is used only by a remote clearing house; the local device merely records lists of markers and transmits them to the clearing house (thus the markers are not used in association with controlling access to content), and (2) the marker is used by the remote clearing house to link advertisements to further information about the advertisement s (and not to information that would be used to control access to content).

For at least these reasons, the rejection of claim 10 should be reversed. Claims 2-5, 11-14, and 16 depend from claim 10, and therefore the rejection of these claims should also be reversed for at least the same reasons.

Claim 21 (and 19, 20 and 23-25 which depend from claim 21)

Claim 21 recites the following:

21. A content player accessible to a plurality of users, comprising:

 a memory device storing a default profile, the default profile including at least one filtering criterion, the filtering criterion of the default profile describing at least one of a characteristic of content permitted for all of the plurality of users and a characteristic of content prohibited for all of the plurality of users;

 a processor configured to compare metadata associated with selected content and the filtering criterion of the default profile, the processor configured to permit or deny rendering of the selected content based on the comparison, wherein the processor is provided in a settop box, and wherein the processor controls rendering of the content on a television and wherein the processor is configured to obtain a pointer to the metadata, the pointer being encoded in a vertical blanking interval of a signal of the selected content, and wherein the

processor obtains the metadata for the comparison using the pointer.

As described above in connection with claim 9, the primary reference upon which the Office Action relies, Horiwitz et al., relates to locking and unlocking program content, i.e., content access control. Both Ozer et al. and the Ozer '231 application have nothing to do with content access control, and instead relate to tracking viewing behavior. A person of ordinary skill in the art would not look to Ozer et al. (or the Ozer '231 application) in seeking to modify the locking and unlocking system described in the Horiwitz patent.

Additionally, claim 21 recites that a processor obtains a pointer to metadata which is encoded in the VBI of a signal carrying a selected content, and the processor obtains the metadata (for comparison with filtering criterion) using the pointer. As regards to the pointer, the Office Action apparently relies on the "marker" described in the Ozer '231 application. However, as noted above, in the Ozer '231 application, (1) the marker is used only by a remote clearing house; the local device merely records lists of markers and transmits them to the clearing house (thus, the marker is not used in association with controlling access to content), and (2) the marker is used by the remote clearing house to link advertisements to further information about the advertisements (and not to information that would be used to control access to content).

For at least the foregoing reasons, it is respectfully submitted that Horowitz et al. and Ozer et al. do not render the subject matter of claim 21 obvious. Thus, the rejection of claim 21 should be reversed. Claims 19-20 and 23-25 depend from claim 21; therefore the rejection of claims 19, 20 and 23-25 should be reversed for at least the same reasons.

Claim 27 (and claims 28 and 29, which depend from claim 27)

Claim 27 recites the following:

27. A method to control access to content via a player system, the method comprising:
 selecting content, the selected content having metadata linked thereto via a pointer;
 obtaining the metadata using the pointer;
 comparing the obtained metadata and at least one filtering criterion, the filtering criterion describing a characteristic of at least one of permitted content or prohibited content;
 permitting or denying access to the selected content based on the comparison.

As described above in connection with claim 9, the primary reference upon which the Office Action relies, Horiwitz et al., relates to locking and unlocking program content, i.e., content access control. Both Ozer et al. and the Ozer '231 application have nothing to do with content access control, and instead relate to tracking viewing behavior. A person of ordinary skill in the art would not look to Ozer et al. (or the Ozer '231 application) in seeking to modify the locking and unlocking system described in the Horiwitz patent.

Moreover, claim 27 recites selecting content having metadata linked thereto via a pointer, using that pointer to obtain metadata, comparing that obtained metadata to filtering criterion, and permitting or denying access to the selected content based on the comparison. That is, the metadata linked to the content via a pointer is used to control access to the content. As regards the recited pointer, the Office Action apparently relies on the "marker" described in the Ozer '231 application. However, as noted above, in the Ozer '231 application, (1) the marker is used only by a remote clearing house; the local device merely records lists of markers and transmits them to the clearing house (thus, the marker is not used in association with controlling access to content), and (2) the marker is used by the remote clearing house to link advertisements to further information about the advertisements (and not to information that would be used to control access to content).

For at least these reasons, the rejection of claim 27 should be reversed. Additionally, claims 28-29 depend from claim 27; thus, the rejections of claims 28 and 29 should be reversed for at least the same reasons.

Claim 30 (and claim 32, which depends from claim 30)

Claim 30 recites the following:

30. A content player, comprising:

a memory device storing at least one filtering criterion, the filtering criterion describing a characteristic of at least one of permitted content and prohibited content; and

a processor configured to obtain a pointer to metadata associated with selected content, obtain the metadata using the pointer, compare the metadata to the filtering criterion, and to permit or deny rendering of the selected content based on the comparison, wherein the processor is configured to extract the pointer from a vertical blanking interval (VBI) of a signal of the selected content.

As described above in connection with claim 9, the primary reference upon which the Office Action relies, Horiwitz et al., relates to locking and unlocking program content, i.e., content access control. Both Ozer et al. and the Ozer '631 application have

nothing to do with content access control, and instead relate to tracking viewing behavior. A person of ordinary skill in the art would not look to Ozer et al. (or the Ozer '631 application) in seeking to modify the locking and unlocking system described in the Horiwitz patent.

Moreover, claim 30 recites a processor which obtains a pointer to metadata associated with selected content, obtains the metadata using the pointer, compares the obtained metadata to filtering criterion, and permits or denies access based on the comparison, the processor being adapted to extract the pointer from the VBI of a signal of the selected content. That is, claim 30 recites a processor which controls access to content via metadata linked to selected content via a pointer in the VBI of the signal of the selected content. As regards the recited pointer, the Office Action apparently relies on the "marker" described in the Ozer '631 application. However, as noted above, in the Ozer '631 application, (1) the marker is used only by a remote clearing house; the local device merely records lists of markers and transmits them to the clearing house (thus, the marker is not used in association with controlling access to content), and (2) the marker is used by the remote clearing house to link advertisements to further information about the advertisements (and not to information that would be used to control access to content).

For at least the foregoing reasons, claim 30 is not obvious over Horowitz et al. in view of Ozer et al. Accordingly, the rejection of claim 30 should be reversed. Claim 32 depends from claim 30; thus the rejection of claim 32 should be reversed for at least the same reasons.

Claim 33 (and claim 34, which depends on claim 33)

Claim 33 recites, the following:

33. A method to control access to content stored on a memory device, comprising:

- selecting the content stored on the memory device;
- reading metadata associated with the content, wherein the metadata is read from a location indicated by a pointer extracted from a vertical blanking interval (VBI) of a signal of the selected content;

- comparing the metadata to at least one stored filtering criterion, the filtering criterion describing a characteristic of at least one of permitted and prohibited content; and

- permitting or denying rendering of the content based on the comparison.

As described above in connection with claim 9, the primary reference upon which the Office Action relies, Horiwitz et al., relates to locking and unlocking program

content, i.e., content access control. Both Ozer et al. and the Ozer '631 application have nothing to do with content access control, and instead relate to tracking viewing behavior. A person of ordinary skill in the art would not look to Ozer et al. (or the Ozer '631 application) in seeking to modify the locking and unlocking system described in the Horiwitz patent.

Moreover, claim 33 recites a method of controlling access to content stored on a memory device. Metadata is read from a location indicated by a pointer extracted from the VBI of a signal of selected content. That metadata is then compared to filtering criterion. The content is then permitted (or denied) to be rendered based on the comparison. As regards the pointer of claim 33, the Office Action apparently relies on the "marker" described in the Ozer et al. application. However, as noted above, in the Ozer '631 application, (1) the marker is used only by a remote clearing house; the local device merely records lists of markers and transmits them to the clearing house (thus, the marker is not used in association with controlling access to content), and (2) the marker is used by the remote clearing house to link advertisements to further information about the advertisements (and not to information that would be used to control access to content).

In view of the foregoing, it is submitted that the subject matter of claim 33 is not obvious over Horowitz et al. in view of Ozer et al. Thus, the rejection of claim 33 should be reversed. claim 34 depends from claim 33, thus, for at least the same reasons, the rejection of claim 34 should be reversed.

Claim 35

Claim 35 recites the following:

35. A content player, comprising:
a memory device storing at least one filtering criterion, the filtering criterion describing a characteristic of at least one of permitted content and prohibited content; and
a processor configured to compare at least one stored filtering criterion with metadata associated with selected content, and to permit or deny rendering of the selected content based on the comparison, wherein the processor is configured to retrieve the metadata using a pointer.

As noted above, it is submitted that Horiwitz et al., relates to locking and unlocking program content, i.e., content access control. Both Ozer et al. and the Ozer '631 application have nothing to do with content access control, and instead relate to tracking viewing behavior. A person of ordinary skill in the art would not look to Ozer et al. (or the Ozer '631 application) in seeking to modify the locking and unlocking system described in the Horiwitz patent.

Moreover, it appears that with respect to the recited pointer, the Office Action relies on the “marker” described in the Ozer ‘631 application. Respectfully, in the Ozer ‘631 application, (1) the marker is used only by a remote clearing house; the local device merely records lists of markers and transmits them to the clearing house (thus, the marker is not used in association with controlling access to content), and (2) the marker is used by the remote clearing house to link advertisements to further information about the advertisements (and not to information that would be used to control access to content).

For at least the foregoing reasons, it is respectfully submitted that Horowitz et al. in view of Ozer et al. does not render claim 35 obvious. The rejection of claim 35 should therefore be reversed.

B. Rejection of claims 6 and 26 Under 35 U.S.C. § 103(a)

Claims 6 and 26 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Horiwitz et al. in view of Ozer et al., and in further view of U.S. Patent Application No. 2003/0088420 A1 (“alSafadi et al.”). It is respectfully submitted that the combination of Horiwitz et al. and alSafadi et al. does not render unpatentable the present claims for at least the following reasons.

Claim 6 depends from claim 10 and therefore includes all of the features recited in claim 10. As more fully set forth above, claim 10 is patentable over the cited references. alSafadi et al. does not cure the critical deficiencies set forth above. As such, it is respectfully submitted that the combination of Horiwitz et al., Ozer et al. and alSafadi et al. does not render unpatentable claim 6.

Claim 26 depends from claim 21 and therefore includes all of the features recited in claim 21. As more fully set forth above, claim 26 is patentable over the cited references. alSafadi et al. does not cure the critical deficiencies set forth above. As such, it is respectfully submitted that the combination of Horiwitz et al., Ozer et al. and alSafadi et al. does not render unpatentable claim 26.

In view of all of the foregoing, reversal of this rejection is respectfully requested.

C. Rejection of Claims 7, 8, 15 and 18 Under 35 U.S.C. § 103(a)

Claims 7, 8, 15 and 18 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Horiwitz et al. in view of Ozer et al. and in further view of U.S. Patent Application No. 2003/0014750 (“Kamen”). It is respectfully submitted that the

combination of Horiwitz et al. and Kamen does not render unpatentable the present claims for at least the following reasons.

Claims 7, 8 and 15 depend from claim 10 and therefore include all of the features recited in claim 10. As more fully set forth above, claim 10 is patentable over the cited references. Kamen does not cure the critical deficiencies set forth above. As such, it is respectfully submitted that the combination of Horiwitz et al., Ozer et al. and Kamen does not render unpatentable claims 7, 8 and 15.

Claim 18 depends from claim 21 and therefore includes all of the features recited in claim 21. As more fully set forth above, claim 21 is patentable over the cited references. Kamen does not cure the critical deficiencies set forth above. As such, it is respectfully submitted that the combination of Horiwitz et al., Ozer et al. and Kamen does not render unpatentable claim 18.

In addition, claim 7 recites providing the selected content **on a removable medium**. The Applicants respectfully submit that Ozer et al. teaches away from this feature. Ozer et al. refers to data available on an electronic program guide, which would not likely be available for content stored on a removable medium as referred to by Horiwitz et al. and Kamen. Therefore, one of ordinary skill in the art would not have combined Horiwitz et al., Ozer et al. and Kamen to provide access control to content on a removable medium.

Claim 8 depends from claim 7, and is therefore allowable over the cited references for at least the same reasons as claim 7.

Similarly, claim 18 recites wherein the selected content is provided on a removable media. Therefore, claim 18 is allowable over the cited references for at least similar reasons as claim 7.

In view of all of the foregoing, reversal of this rejection is respectfully requested.

8. CLAIMS APPENDIX

A "Claims Appendix" is attached hereto and appears on the five (5) pages numbered "Claims Appendix 1" to "Claims Appendix 5."

9. EVIDENCE APPENDIX

No evidence has been submitted pursuant to 37 C.F.R. §§ 1.130, 1.131 or 1.132. No other evidence has been entered by the Examiner or relied upon by Appellants in the appeal. An "Evidence Appendix" is nevertheless attached hereto.

10. RELATED PROCEEDINGS APPENDIX

As indicated above in Section 2, above, “[t]here are no other prior or pending appeals, interferences or judicial proceedings known by the undersigned, or believed by the undersigned to be known to Appellants or the assignee, Home Box Office, ‘which may be related to, directly affect or be directly affected by or have a bearing on the Board’s decision in the pending appeal.’” As such, there are no “decisions rendered by a court or the Board in any proceeding identified pursuant to [37 C.F.R. § 41.37(c)(1)(ii)]” to be submitted. A “Related Proceedings Appendix” is nevertheless attached hereto.

11. CONCLUSION

For at least the reasons indicated above, Appellants respectfully submit that the art of record does not disclose or suggest the subject matter as recited in the claims of the above-identified application. Accordingly, it is respectfully submitted that the subject matter recited in the claims of the present application is new, non-obvious and useful.

In view of all of the foregoing, reversal of all of the rejections set forth in the Final Office Action is therefore respectfully requested.

Respectfully submitted,

Dated: 18 OCT, 2007

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CLAIMS APPENDIX

2. The method according to claim 10, wherein the access to the selected content is permitted if the comparison indicates that the selected content meets the filtering criterion of the default profile.

3. The method according to claim 10, wherein the content includes at least one of audio and video data.

4. The method according to claim 10, wherein the information of the metadata includes at least one of an MPAA rating, a content advisory, a name of an actor associated with the selected content, a name of a director of the selected content, a genre and a synopsis.

5. The method according to claim 10, wherein the filtering criterion includes at least one of identification of acceptable ratings, identification of acceptable content advisories, identification of prohibited synopsis information, identification of prohibited directors, identification of prohibited actors, and identification of prohibited genres.

6. The method according to claim 10, wherein the metadata is coded in XML.

7. The method according to claim 10, further comprising:
providing the selected content on a removable medium.

8. The method according to claim 7, wherein the medium includes at least one of a CD, DVD, magnetic tape, and flash memory.

9. A method to control access to content via a player system accessible by a plurality of users, the method comprising:

providing a default profile including at least one filtering criterion, the filtering criterion describing at least one of a characteristic of content permitted for all of the plurality of users and a characteristic of content prohibited for all of the plurality of users;

comparing metadata associated with a selected content and the filtering criterion of the default profile, the metadata including information related to the selected content; and

permitting or denying access to the content based on the comparison, wherein the metadata is associated with the selected content using a URL in connection with the selected content, and wherein the method further comprises obtaining the metadata using the URL, wherein the URL associates the metadata with the selected content.

10. A method to control access to content via a player system accessible by a plurality of users, the method comprising:

providing a default profile including at least one filtering criterion, the filtering criterion describing at least one of a characteristic of content permitted for all of the plurality of users and a characteristic of content prohibited for all of the plurality of users;

comparing metadata associated with a selected content and the filtering criterion of the default profile, the metadata including information related to the selected content; and

permitting or denying access to the content based on the comparison, wherein a pointer to the metadata is encoded in a Vertical Blanking Interval of a signal of the selected content, and the method further comprising obtaining the metadata using the pointer.

11. The method according to claim 10, wherein the pointer is a URL.

12. The method according to claim 10, further comprising:

providing a user profile associated with a particular one of the plurality of the users, the user profile including at least one filtering criterion describing at least one of a characteristic of content permitted to be accessed by the particular one of the users and a characteristic of content prohibited from being accessed by the particular one of the users;

comparing the filtering criterion of the user profile and the metadata; and

permitting access to the selected content if the content meets the filtering criterion.

13. The method according to claim 12, further comprising:

reverting back to the filtering criterion of the default profile in connection with accessing subsequent content.

14. The method according to claim 12, further comprising:

requiring the user to provide user information if the selected content does not meet the filtering criterion of the default profile.

15. The method according to claim 14, wherein the user information includes a username and a password, the user profile being associated with the username.

16. The method according to claim 10, wherein the comparing step includes comparing the metadata and the filtering criterion of the default profile without requiring a user to provide user information.

18. The content player according to claim 21, wherein the selected content is provided on a removable media.

19. The content player according to claim 21, wherein a pointer to the metadata is associated with the selected content, and wherein the processor is configured to obtain the metadata for the comparison using the pointer.

20. The content player according to claim 19, wherein the pointer is a URL.

21. A content player accessible to a plurality of users, comprising:
a memory device storing a default profile, the default profile including at least one filtering criterion, the filtering criterion of the default profile describing at least one of a characteristic of content permitted for all of the plurality of users and a characteristic of content prohibited for all of the plurality of users;

a processor configured to compare metadata associated with selected content and the filtering criterion of the default profile, the processor configured to permit or deny rendering of the selected content based on the comparison, wherein the processor is provided in a settop box, and wherein the processor controls rendering of the content on a television and wherein the processor is configured to obtain a pointer to the metadata, the pointer being encoded in a vertical blanking interval of a signal of the selected content, and wherein the processor obtains the metadata for the comparison using the pointer.

23. The content player according to claim 21, wherein the pointer is a URL.

24. The content player according to claim 21, wherein the processor is configured to manage the default profile and a plurality of user profiles, each of the user profiles being associated with a respective one of the users.

25. The content player according to claim 21, wherein the filtering criterion includes at least one of identification of acceptable ratings, identification of acceptable content advisories, identification of prohibited synopsis information, identification of prohibited directors, identification of prohibited actors, and identification of prohibited genres.

26. The content player according to claim 21, wherein the metadata is coded in XML.

27. A method to control access to content via a player system, the method comprising:
selecting content, the selected content having metadata linked thereto via a pointer;
obtaining the metadata using the pointer;
comparing the obtained metadata and at least one filtering criterion, the filtering criterion describing a characteristic of at least one of permitted content or prohibited content;
permitting or denying access to the selected content based on the comparison.

28. The method according to claim 27, wherein the pointer is embedded in a Vertical Blanking Interval (VBI) of a signal of the selected content, and wherein the method further comprises:

extracting the pointer from the VBI.

29. The method according to claim 27, wherein the pointer is a URL, and the step of obtaining the metadata of the selected content includes obtaining the metadata over the Internet using the URL.

30. A content player, comprising:
a memory device storing at least one filtering criterion, the filtering criterion describing a characteristic of at least one of permitted content and prohibited content; and
a processor configured to obtain a pointer to metadata associated with selected content, obtain the metadata using the pointer, compare the metadata to the filtering criterion, and to permit or deny rendering of the selected content based on the comparison, wherein the processor is configured to extract the pointer from a vertical blanking interval (VBI) of a signal of the selected content.

32. The content player according to claim 30, wherein the pointer is a URL, and the processor is further configured to obtain the metadata over the Internet using the URL.

33. A method to control access to content stored on a memory device, comprising:
selecting the content stored on the memory device;
reading metadata associated with the content, wherein the metadata is read from a location indicated by a pointer extracted from a vertical blanking interval (VBI) of a signal of the selected content;
comparing the metadata to at least one stored filtering criterion, the filtering criterion describing a characteristic of at least one of permitted and prohibited content; and
permitting or denying rendering of the content based on the comparison.

34. The method according to claim 33, wherein the metadata includes ratings information.

35. A content player, comprising:
a memory device storing at least one filtering criterion, the filtering criterion describing a characteristic of at least one of permitted content and prohibited content; and
a processor configured to compare at least one stored filtering criterion with metadata associated with selected content, and to permit or deny rendering of the selected content based on the comparison, wherein the processor is configured to retrieve the metadata using a pointer.

EVIDENCE APPENDIX

No evidence has been submitted pursuant to 37 C.F.R. §§1.130, 1.131, or 1.132. No other evidence has been entered by the Examiner or relied upon by Appellants in the appeal.

RELATED PROCEEDINGS APPENDIX

As indicated above in Section 2 of this Appeal Brief, “[t]here are no other prior or pending appeals, interferences or judicial proceedings known by the undersigned, or believed by the undersigned to be known to Appellants or the assignee, Home Box Office, ‘which may be related to, directly affect or be directly affected by or have a bearing on the Board’s decision in the pending appeal.’” As such, there no “decisions rendered by a court or the Board in any proceeding identified pursuant to [37 C.F.R. § 41.37(c)(1)(ii)]” to be submitted.